# Court of Appeals, State of Michigan

## ORDER

D. Samuel Goodell v Department of Consumer & Industry Services

Docket No. 256979

LC No. 03-003233-AA

William B. Murphy
Presiding Judge

Richard A. Bandstra

Joel P. Hoekstra
Judges

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Pursuant to MCR 7.205(D)(2), in lieu of granting the application for leave to appeal, the July 8, 2004 order of the circuit court reversing the January 27, 2003 order of the Board of Real Estate Brokers and Salespersons is VACATED for the reason that the circuit court erred in deciding the subpoena issue petitioner presented on appeal based upon provisions of the Administrative Procedures Act, MCL 24.201 *et seq.*, an enabling act, rather than the pertinent section of the governing act, the Occupational Code, MCL 339.101 *et seq*. The APA does not provide an independent grant of subpoena power. Rather, the power to issue a subpoena must be expressly conferred by statute. *Vance v Ananich,* 145 Mich App 833, 836; 378 NW2d 616 (1985). See MCL 339.512. This case is REMANDED to the circuit court to reconsider petitioner's subpoena issue consistent with this order and to decide any remaining issues petitioner presented on appeal to the circuit court. We do not retain jurisdiction.

A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 13 2005
Date

Sandra Schultz Mengel
Chief Clerk